

Magistrate Judge Creatura

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,
Plaintiff

v.

DONALD ROBERT HARTTLET,
Defendant.

CASE NO. MJ18-5109

COMPLAINT for VIOLATION

Title 21, United States Code, §§ 841(a)(1),
841(b)(1)(B) and 841(b)(1)(C), and Title 18,
United States Code, §§ 922(g)(1), 924(a)(2),
924(c)(1)(A), and 2

BEFORE J. Richard Creatura, United States Magistrate Judge, Tacoma,
Washington.

COUNT 1

(Possession with Intent to Distribute Controlled Substances)

On or about April 16, 2018, at Tacoma, within the Western District of
Washington, DONALD ROBERT HARTTLET knowingly and intentionally did possess
with intent to distribute, and did aid and abet such possession with intent to distribute,
methamphetamine, heroin, and cocaine, substances controlled under Title 21, United
States Code, Section 812.

1 The United States further alleges that this offense involved five (5) grams or more
2 of methamphetamine, its salts, isomers, and salts of its isomers, or fifty (50) or more
3 grams of a mixture and substance containing a detectable amount of methamphetamine,
4 its salts, isomers, and salts of its isomers.

5 All in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(B),
6 and 841(b)(1)(C), and Title 18, United States Code, Section 2.

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8 **COUNT 2**

9 **(Possession of a Firearm in Furtherance of a Drug Trafficking Crime)**

10 On or about April 16, 2018, at Tacoma, within the Western District of
11 Washington, DONALD ROBERT HARTTLET knowingly and intentionally possessed,
12 and did aid and abet the possession of, a firearm, to wit:

- 13 • a Springfield Amory, model XD9, 9mm caliber semi-automatic pistol, serial
14 number US921265; and
15 • a Glock, model 19, 9mm caliber semi-automatic pistol, serial number
16 BCRV407;

17 in furtherance of a drug trafficking offense for which he may be prosecuted in a Court of
18 the United States, to wit, Possession with Intent to Distribute Controlled Substances, as
19 charged in Count 1.

20 All in violation of Title 18, United States Code, Sections 924(c)(1)(A) and 2.
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COUNT 3**(Felon in Possession of a Firearm)**

On or about April 16, 2018, at Tacoma, within the Western District of Washington, DONALD ROBERT HARTTLET, having previously been convicted of a crime punishable by imprisonment for a term exceeding one year, to wit:

- *Unlawful Possession of a Controlled Substance (Cocaine) (SCH II)*, case number 13-1-00204-5, in the Superior Court of Pierce County, Washington, dated March 5, 2013;
- *Theft in the First Degree and Assault in the Third Degree*, case number 12-1-01652-8, in the Superior Court of Pierce County, Washington, dated March 5, 2013;
- *Unlawful Possession of a Controlled Substance (Methamphetamine) (SCH II)*, case number 14-1-00120-9, in the Superior Court of Pierce County, Washington, dated January 28, 2014;
- *Attempted Unlawful Possession of a Controlled Substance (Methamphetamine) (SCH II)*, case number 14-1-01512-9, in the Superior Court of Pierce County, Washington, dated May 20, 2014; and
- *Attempted Unlawful Possession of a Controlled Substance with Intent to Deliver (Heroin) (SCH I) and Unlawful Possession of a Firearm in the Second Degree*, case number 14-1-04357-2, in the Superior Court of Pierce County, Washington, dated February 11, 2015;

did knowingly possess, and did aid and abet the possession of, a firearm, to wit:

- a Springfield Amory, model XD9, 9mm caliber semi-automatic pistol, serial number US921265; and
- a Glock, model 19, 9mm caliber semi-automatic pistol, serial number BCRV407;

which had previously traveled in interstate and foreign commerce.

All in violation of Title 18, United States Code, Sections 922(g)(1), 924(a)(2), and 2.

1 And the Complainant states that this Complaint is based on the following
2 information:

3 I, Andriy I. Vavilin, being duly sworn, depose and state, that I am a Special Agent
4 (SA) with the Bureau of Alcohol, Tobacco, Firearms & Explosives (ATF), United States
5 Department of Justice, and have been so employed since July of 2017. I am a law
6 enforcement officer of the United States, and am empowered by law to conduct
7 investigations of, and to make arrests for, offenses against the United States, as codified
8 at Title 18, United States Code, Section 3051. I have completed the Federal Law
9 Enforcement Training Center Criminal Investigative Program and the ATF National
10 Academy Special Agent Basic Training Program in Brunswick, Georgia. Prior to
11 becoming an ATF Special Agent, I graduated from Rowan University and received a
12 Bachelor's of Arts Degree in Law & Justice (Summa Cum Laude). From 2014 to 2017, I
13 was employed as a Police Officer with the United States Capitol Police.

14 I obtained the following information through personal observations, and through
15 information provided to me by other law enforcement officers and via police reports, and
16 through discussions with other agents and officers who are familiar with the investigation
17 of Donald Robert HARTTLET, born in 1989. I have also participated in conducting
18 background investigations, including criminal histories, pertaining to the investigation for
19 the offense(s) described above. As a result, I am familiar with all aspects of this
20 investigation. Since I am submitting this affidavit for the limited purpose of establishing
21 probable cause, however, I have not included each fact known to me concerning this
22 investigation.

23 On April 16, 2018 at approximately 12:50 p.m., members of the Washington State
24 Department of Corrections (DOC) were conducting surveillance at the Econo Lodge
25 Hotel located at 8820 S. Hosmer Street, Tacoma, Washington. DOC officers witnessed
26 Adam P. Healy walk from a black BMW (bearing Washington license plate BEK1265)
27 and enter room 117 of the Econo Lodge Hotel. Healy had an active DOC felony warrant.
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1 DOC Officer Stephen Moffitt knocked and announced at room 117 three times and
2 stated that the door would be forced open if nobody answered. Officer Moffitt did not
3 receive a response, so he used a key card obtained from the front desk to open the door.
4 Inside the room, DOC officers contacted defendant Donald HARTTLET, and another
5 man ("W.E.P."). Upon entry, Officer Moffitt immediately noticed aluminum foil, a
6 digital scale, and a large black rock of a tar-like substance, which later field-tested
7 positive for the presence of heroin, on the nightstand between the two beds in the room.
8 Both HARTTLET and W.E.P. were detained. Healy was not located in the room.

9 Defendant HARTTLET was also on active DOC supervision. HARTTLET has a
10 condition of supervision that states he may not possess any controlled substance, as well
11 as one that prohibits him from possessing firearms and ammunition. Officer Moffitt read
12 HARTTLET his *Miranda* warning from a DOC issued card. HARTTLET then informed
13 Officer Moffitt that he stayed in the room the previous night. HARTTLET stated that
14 W.E.P. did not reside in the room and that he was just visiting. HARTTLET also
15 informed Officer Moffitt that he slept in the bed on the right side of the room (closest to
16 the door), and that everything on that bed to include a black backpack was his.

17 On the bed directly next to the black backpack, Officer Moffitt observed a pistol
18 magazine pouch containing two pistol magazines loaded with 9mm ammunition, as well
19 as some more aluminum foil. HARTTLET advised Officer Moffitt that the clothes on the
20 bed on the left side of the room were also his. HARTTLET stated that "Ray" also stayed
21 in the room, but said he did not know his full name. Officer Moffitt asked HARTTLET
22 who the narcotics belonged to, to which HARTTLET replied that he did not know.

23 Parked outside of the room was a black BMW (Washington license plate
24 BEK1265), which was registered to another individual ("S.L.M."). Officer Moffitt had
25 previously witnessed defendant HARTTLET driving that same BMW to report to the
26 DOC office. HARTTLET informed Officer Moffitt that he had driven the vehicle to the
27 Econo Lodge on April 15, 2018. Officer Moffitt asked HARTTLET if there was
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1 anything in the vehicle that would violate his conditions of supervision, to which
2 HARTTLET replied, "No." HARTTLET then provided consent to search the vehicle.

3 DOC Officer Zachary Johnson conducted a search of the above-described BMW.
4 Officer Johnson recovered a pistol magazine loaded with ten rounds of 9mm ammunition
5 from the driver's door compartment. Officer Johnson recovered another single round of
6 9mm ammunition from the center console, and three rounds of 9mm ammunition from
7 the trunk. Additionally, Officer Johnson recovered a small digital scale from under the
8 driver's seat of the vehicle.

9 Officer Moffitt received permission from DOC Community Corrections
10 Supervisor Randi Unfred to conduct a search of the room. During the search, DOC
11 officers located one 9mm round of ammunition inside the top of the aforementioned
12 black backpack on the right side bed. Additionally, DOC officers recovered the pistol
13 magazine pouch containing two pistol magazines loaded with 9mm ammunition, and two
14 cell phones. From the top of the nightstand, DOC officers recovered approximately 47.8
15 grams of black tar-like substance that field-tested positive for the presence of heroin.
16 Also on the nightstand, DOC officers recovered a straw and aluminum foil (commonly
17 used to smoke heroin and other drugs), and a digital scale (commonly used to weigh
18 illegal drugs for distribution). Inside the nightstand drawer was a wallet containing
19 HARTTLET's Washington State Identification and \$768 in U.S. currency.

20 DOC officers also recovered a firearm from under the bed (specifically between
21 the mattress and the box spring) on the right side of the room (closest to the door). The
22 firearm was a Glock, Model 19, 9mm caliber pistol, bearing serial number BCRV407. It
23 was fully loaded with a 31-round extended magazine ("clip") inserted inside, and had a
24 round in the chamber.

25 DOC officers also located a Springfield Armory, Model XD9, 9mm caliber pistol,
26 bearing serial number US921265, also with an extended magazine. That firearm was
27 found between the box spring and the mattress of the bed on the left side of the room
28 (furthest from the door). Next to that firearm, Officer Moffitt recovered a small black

1 bag. Inside the bag were the following items: a plastic bag containing approximately
2 10.3 grams of white powdery substance that field-tested positive for cocaine; a plastic
3 bag containing approximately 100.8 grams of a crystal-like substance that field-tested
4 positive for methamphetamine; two plastic baggies containing a total of approximately
5 14.2 grams of black tar-like substance that field-tested positive for heroin; and a small
6 clear bag containing multiple empty plastic baggies of the type commonly used to
7 package illegal drugs for distribution. Additionally, Officer Moffitt recovered two more
8 extended pistol magazines loaded with multiple rounds of 9mm ammunition, which were
9 found on the floor on the left side of the bed. A total of approximately 101 rounds of
10 9mm ammunition were found inside the hotel room.

11 Tacoma Police Department (TPD) Officer Clark arrived on scene and checked
12 whether the firearms were stolen. Both were. The above Glock 9mm caliber pistol was
13 confirmed stolen (reference TPD case number 1730401695). The Springfield Armory
14 9mm caliber pistol was also confirmed stolen (Everett PD case number 2016-101927).

15 Officer Moffitt asked defendant HARTTLET about the possession of the firearms
16 and narcotics, at which time HARTTLET stated that they were not his. Officer Moffitt
17 asked HARTTLET whether he thought that with his identification, and only his
18 belongings in the room, would a reasonable person believe that the firearms and narcotics
19 were his. HARTTLET's response was, "Yes, I guess they would, but it is not my stuff."

20 Officer Moffitt also interviewed W.E.P., who informed Officer Moffitt that he was
21 just visiting the room. W.E.P. stated that he was staying in room 102 at the Econo Lodge.
22 Officer Moffitt asked W.E.P. if he had any property in this room (117), to which W.E.P.
23 stated that he just had a black backpack on the floor. W.E.P. provided DOC officers with
24 consent to look inside the backpack. DOC officers did not see any contraband or seize
25 any items from the backpack. W.E.P. also informed Officer Moffitt that he did not know
26 to whom the narcotics on the nightstand belonged. Officer Moffitt asked W.E.P. if
27 anyone else was in the room, to which W.E.P. responded that he did not know because he
28 had just arrived. W.E.P. was thereafter released.

ATF Special Agent Jonathan Hansen was contacted and arrived on scene. Based on SA Hansen's knowledge and experience as a certified Interstate Nexus Expert, he determined that the above-referenced Glock and Springfield Armory pistols are both "firearms" as defined by federal law, and that neither of them were manufactured in the State of Washington. As a result, each of those firearms must have traveled in, and thereby affected, interstate or foreign commerce, in order to be received or possessed in the State of Washington.

I have reviewed copies of criminal history printouts and Felony Judgment and Sentence documents, showing that defendant Donald HARTTLET has been convicted for the following crimes, each punishable by imprisonment for a term exceeding one year:

- *Unlawful Possession of a Controlled Substance (Cocaine) (SCH II)*, case number 13-1-00204-5, in the Superior Court of Pierce County, Washington, dated March 5, 2013;
- *Theft in the First Degree and Assault in the Third Degree*, case number 12-1-01652-8, in the Superior Court of Pierce County, Washington, dated March 5, 2013;
- *Unlawful Possession of a Controlled Substance (Methamphetamine) (SCH II)*, case number 14-1-00120-9, in the Superior Court of Pierce County, Washington, dated January 28, 2014;
- *Attempted Unlawful Possession of a Controlled Substance (Methamphetamine) (SCH II)*, case number 14-1-01512-9, in the Superior Court of Pierce County, Washington, dated May 20, 2014; and
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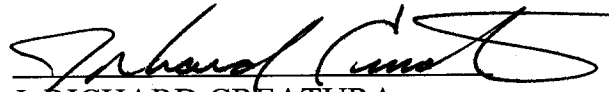
Based on the foregoing, I respectfully submit that there is probable cause to believe that Donald Robert HARTTLET, committed the crimes of: Felon in Possession of a Firearm, in violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2); and Possession of Controlled Substances (Cocaine, Methamphetamine, and Heroin) with Intent to Distribute, in violation Title 21, United States Code, Sections

1 841(a)(1), 841(b)(1)(B), and 841(b)(1)(C); and Possession of a Firearm in Furtherance of
2 a Drug Trafficking Crime, in violation of Title 18, United States Code, Section
3 924(c)(1)(A).
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6 ANDRIY I. VAVILIN, Complainant
7 Special Agent, ATF
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11 Based on the Complaint and Affidavit sworn to before me, and subscribed in my
12 presence this 30th day of April, 2018, the Court hereby finds that there is probable
13 cause to believe the defendant committed the offenses set forth in the Complaint.
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16 J. RICHARD CREATURA
17 United States Magistrate Judge
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